

STATE OF INDIANA )  
 ) SS:  
COUNTY OF ST. JOSEPH )

IN THE ST. JOSEPH CIRCUIT COURT

CAUSE NO. 7R010408 PL0019

STATE OF INDIANA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
LAKESIDE BUILDERS, LLC, )  
BRIAN MIDDLEBORN, )  
JASON MIDDLEBORN, and )  
PAT "PATCHES" MIDDLEBORN )  
 )  
Defendants )

ST. JOSEPH COUNTY  
CLERK  
2009 AUG -6 P 1:21  
CIRCUIT COURT

**COMPLAINT FOR INJUNCTION, RESTITUTION, COSTS  
AND CIVIL PENALTIES**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Roy Coffey, petitions the Court pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *et seq.*, the Indiana Home Improvement Contracts Act, Ind. Code § 24-5-11-1 *et seq.*, the Indiana Credit Services Organizations Act, Ind. Code § 24-5-15-1 *et seq.*, and the Indiana Home Solicitation Sales Act, Ind. Code § 24-5-10-1 *et seq.*, for injunctive relief, costs, and other relief.

**PARTIES**

1. The Plaintiff, State of Indiana is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 24-5-0.5-4(c) and Ind. Code § 24-5-11-14.

2. Defendant, Lakeside Builders, LLC ("Lakeside") is a domestic limited liability company, with a principal place of business at 1915 S. Heaton Street, Knox, Indiana 46534 who at all relevant times engaged in business as a home improvement contractor and acted as a credit services organization.

3. Defendant Jason Middleborn ("Jason Middleborn") is an individual, who at all times relevant to this complaint engaged in business as a home improvement contractor and acted as a credit services organization.

4. Defendant Pat Middleborn ("Pat Middleborn") is an individual, who at all time relevant to this complaint engaged in business as a home improvement contractor and acted as a credit services organization.

5. Defendant Brian Middleborn ("Brian Middleborn") is an individual, who at all times relevant to this complaint, was employed by a loan originator by 1<sup>st</sup> Trust Mortgage Corporation and also engaged in business as a home improvement contractor.

### **FACTS**

6. On May 22, 2001, the State of Indiana obtained a judgment in Lake Circuit Court against Pat Middleborn for violations of Indiana's Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1 *et seq.* and Home Improvement Contracts Act, Ind. Code § 24-5-11-1 *et seq.* A copy of the judgment is attached hereto and incorporated by reference as Exhibit "A."

7. On October 22, 1999, the State of Indiana obtained a judgment in Lake Circuit Court against Pat Middleborn and Brian Middleborn for violations of Indiana's Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1 *et seq.* and Home Improvement

Contracts Act, Ind. Code § 24-5-11-1 *et seq.* A copy of the judgment is attached hereto and incorporated by reference as Exhibit "B."

8. Pat Middleborn and Brian Middleborn are enjoined from violating Indiana's Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1 *et seq.* and Home Improvement Contracts Act, Ind. Code § 24-5-11-1 *et seq.*

9. At all times relevant to this complaint Jason Middleborn and Pat Middleborn acted as the alter ego of Lakeside Builders, LLC; conducting, managing and controlling the affairs of the Defendants' limited liability company as if it were their own business, and using the LLC to defraud consumers as set forth below.

10. At all times relevant to this complaint Jason Middleborn, Pat Middleborn and Brian Middleborn acted as arrangers of credit on behalf of consumers.

11. Since at least May 1, 2002, Defendants, individually or collectively, have entered into home improvement contracts with Indiana consumers.

**Betty Hogue**  
**August 7, 2004 Contract**

12. On or about August 1, 2002, Hogue received a flyer from Lakeside Builders, offering home improvement services to consumers.

13. Hogue responded to the flyer, contacting Lakeside Builders, requesting more information about home improvements.

14. Joe Callahan, Jr. ("Callahan"), an employee of Lakeside Builders, contacted Hogue and arranged for a meeting with Hogue.

15. On August 7, 2004, Callahan met with Hogue in her home.

16. In addition to discussing home improvements to Hogue's home, Callahan advised Hogue Lakeside would "get a loan" to pay for home improvements.

17. During the course of that meeting Callahan prepared a home improvement contract providing Lakeside would:

- a. (Install) new soffitt and fascia to entire house,
- b. Remove 7 existing windows,
- c. Remove existing siding;
- d. Install vinyl siding to entire home,
- e. New gutter & downspout system, and
- f. Install 7 new thermal windows;

at a cost of Twenty Thousand Nine Hundred and Forty Three Dollars (\$20,943.00).

18. Callahan and Hogue executed the contract in her home, a true and accurate copy of which is attached to this complaint as Exhibit "C."

19. Lakeside performed no work pursuant to the contract.

20. Lakeside failed to obtain financing for Hogue.

21. Callahan contacted Hogue and advised her Lakeside was unable to obtain financing for her and suggesting she reduce the number of home improvements.

22. Defendant did not deliver a written notice of Hogue's right to cancel the contract pursuant to Ind. Code § 24-5-10-8 and 9.

23. Defendant failed to include the following information in the contract with Hogue:

- a. the approximate start and completion dates of the home improvements.

- b. a statement of any contingencies that would materially change the approximate completion date.

24. In the course of entering into home improvement transactions, Defendants failed to provide a completed home improvement contract to the consumer before Hogue signed it.

**September 26, 2002 Contract**

25. On September 26, 2002 Callahan and Hogue executed a second home improvement contract in her home providing Lakeside would:

- a. Tear off existing roof,
- b. Redeck entire roof,
- c. Install ice water shield – felt paper,
- d. Install rubber roof on rear of house,
- e. Install 30 year shingles on rest of home,
- f. Install ridge attic (sic) ventilation,
- g. Install ridge cap shingles,
- h. Tear out existing windows,
- i. Install 7 new thermal windows, and
- j. Haul away all job debris;

at a cost of Ten Thousand Dollars (\$10,000.00). A true and accurate copy of the contract is attached hereto and incorporated as Exhibit "D."

26. Brian Middleborn contacted Hogue and prepared a loan application, which was submitted to Key Bank.

27. Key Bank approved an unsecured loan in the amount of Ten Thousand Dollars (\$10,000.00).
28. Hogue paid ten thousand dollars to Lakeside Builders.
29. Lakeside put on a new roof and replaced the windows but did not cap the windows.
30. Defendant did not deliver a written notice of Hogue's right to cancel the contract pursuant to Ind. Code § 24-5-10-8 and 9.
31. Defendant failed to include the following information in the contract with Hogue:
- a. The approximate starting and completion date of the home improvements;
  - b. A statement of any contingencies that would materially change the approximate completion date;
32. In the course of entering into home improvement transactions, defendants failed to provide a completed home improvement contract to the consumer before Hogue signed it.

**October 31, 2002 Contract**

33. On October 31, 2002, at Hogue's home, Hogue and Callahan, on behalf of Lakeside entered into a third home improvement contract in her home, which provided Lakeside, would:
- a. Prep work for appraisal;
  - b. Prepare entire home for siding;
  - c. Install vinyl siding to entire home;
  - d. Install siding to include front porch enclosure;

- e. Install new aluminum soffitt;
- f. Install aluminum/vinyl fascia; and
- g. Haul away debris

at a cost of Fourteen Thousand Dollars (\$14,000.00). A true and accurate copy of the contract is attached hereto and incorporated as Exhibit "E."

34. Defendant failed to include the following information in the contract with Hogue:

- a. the approximate start and completion date of the home improvements,
- b. a statement of any contingencies that would materially change the approximate completion date.

35. In the course of entering into home improvement transactions, Defendants failed to provide a completed home improvement contract to the consumer before Hogue signed it.

36. Lakeside also agreed orally to build a wheel chair ramp at Hogue's home.

37. Lakeside commenced work on the project but walked off the job, without cause.

38. Defendant did not deliver a written notice of Hogue's right to cancel the contract pursuant to Ind. Code § 24-5-10-8 and 9.

39. Hogue was contacted by Brian Middleborn who prepared a loan application for the refinancing of Hogue's home, which was submitted to 1<sup>st</sup> Trust Mortgage for processing.

40. Prior to the time Lakeside stopped work on Hogue's home, Brian Middleborn came to Hogue's home with a check for Eighteen Thousand Dollars (\$18,000.00), representing the proceeds from the refinancing of Hogue's home.

41. Brian Middleborn represented to Hogue that he would deposit the check for her but that he needed her to write a check for Fourteen Thousand Dollars (\$14,000.00) payable to Lakeside Builders, which represented the full amount of the home improvement contract.

42. Hogue gave Brian Middleborn the requested check.

43. Brian Middleborn told Hogue that he would deliver the check to Lakeside Builders as payment in full for the home improvement contract.

44. Hogue questioned the need to pay the full amount of the home improvement contract. Brian Middleborn told her it was required by the terms of the loan.

45. The terms of the loan did not require Hogue to pay the full amount at the time she received the proceeds of her loan.

46. Brian Middleborn also represented he would pay the proceeds of the loan to Lakeside Builders.

47. Brian Middleborn added his name to the check and cashed the check.

48. Brian Middleborn did not pay Lakeside Builders, but converted the money to his own use.

49. Subsequent to the conversion of Hogue's money, Brian Middleborn approached Hogue and offered to personally complete the home improvements to Hogue's home.



50. Reluctantly, Hogue agree to let Brian Middleborn complete the improvements to her home.

**November 25, 2002 Contract**

51. On November 25, 2002, at Hogue's home, Brian Middleborn prepared a home improvement contract, which was executed by the parties in Hogue's home. The contract provided Brian Middleborn would:

- a. Prepare entire home for new siding,
- b. Install new vinyl siding on entire house,
- c. The choice of color made by customer,
- d. Fix the outer porch enclosure,
- e. Install all new aluminum soffitt on entire house,
- f. Build new wheelchair ramp to go out in front of house and use old aluminum ramp as an extension, and
- g. Clean up and haul away debris;

at a cost of Fourteen Thousand (\$14,000.00). A true and accurate copy of the contract is attached hereto and incorporated as Exhibit "G."

52. Defendant failed to include the following information in the contract with Hogue:

- a. The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed,
- b. The approximate starting and completion date of the home improvements,

- c. A statement of any contingencies that would materially change the approximate completion date, and
- d. Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name directly after or below the signature.

53. In the course of entering into home improvement transactions, Defendants failed to provide a completed home improvement contract to the consumer before Hogue signed it.

54. On December 2, 2002, Brian Middleborn added a statement to the contract stating the contract sum of Fourteen Thousand Dollars (\$14,000.00) was paid in full.

55. Brian Middleborn did not start work on Hogue's home and has refused multiple requests by Hogue and others to complete the home improvements.

56. As a part of the contract with Hogue, Defendant Brian Middleborn advised and/or assisted Hogue in obtaining an extension of credit from 1<sup>st</sup> Trust Mortgage arranged through Brian Middleborn, a loan originator for 1<sup>st</sup> Trust Mortgage.

57. Defendants also advised or assisted other consumers in obtaining extensions of credit, including: Maximino and Judith Colon of [redacted] on May 1, 2002, Lugayila Lukuba of [redacted] on January 8, 2002, and Douglas and Norcen Hicks ("Hicks") of [redacted] on June 5, 2002.

58. Defendants assisted the above named consumers in obtaining an extension credit without having obtained a Ten Thousand Dollars (\$10,000.00) bond or irrevocable letter of credit made in favor of the State of Indiana.

59. Defendants did not provide the above named consumers with a written statement, as required by Ind. Code § 24-5-15-6, prior (or in connection with) assisting these consumers in obtaining extensions of credit.

60. Defendants did not provide the above named consumers with a written contract for credit services as required by Ind. Code § 24-5-15-7(a).

61. Defendants did not provide the above named consumers with notices of cancellation as required by Ind. Code § 24-5-15-7(a) and Ind. Code § 24-5-10-9.

62. In the course of entering into home improvement transactions, Defendants failed to provide a completed home improvement contract to the consumer before Hogue signed it.

**Jennifer Shreves**

63. In December 2003, Jennifer Shreves entered into a home improvement contract with Lakeside Builders. A true and accurate copy of the contract is attached hereto and incorporated as Exhibit "H."

64. The home improvement contract provided Lakeside Builders would:

- a. Tear out existing bathroom...gut bathroom to studs.
- b. Extend approximately 5' on west wall x15 foot room addition per sketch,
- c. Construct 42 inch footings with 3 rolls of cinder block to provide crawlspace,
- d. Extend roof over new area with 2/6 joist, 16" on center,
- e. Install roof decking to be 7/16 OSB to match existing style of roof  
– shed roof with modified rubber roof,

- f. Install gravel stop flashing and freeze board,
- g. Install exterior siding on addition alone with white vinyl siding over 7/16 OSB plywood,
- h. Insulate walls with R-13
- i. Install one double hung window (new construction) thermal pane 3x3 no obscure glass and one entry door in the kitchen where window 3 now exists,
- j. Door to 6 panel steel entry (door ½ for kitchen white 36x8 left hinge) design with new header for door. Also, a self-storing storm door will be installed. Both doors and window in white.
- k. New bathroom size will be 8/12 per drawing with closet taking part of doors and window in white,
- l. Move current laundry room to bathroom per drawing,
- m. Job includes all fixtures (listed on contract),
- n. Install bifold doors on closet after framing in and drywalling/finishing to ceiling above the closet doors.
- o. Install subfloor in corner of kitchen where room is extended,
- p. Trim interior around door with colonial to match bathroom,
- q. Install anchor board for future deck (2/10) treated for future building of deck by customer, minimum 10' length,
- r. Provide a warranty on all work will be two years on labor and all manufacturers warranties will apply,

- s. Standard oak toilet paper holder and towel rack included along with one shower curtain rod,
- t. Colors of paint to be selected, counter top and tiles to be white or almond or any standard color (no fashion colors) and no tile inserts,
- u. Outside faucet will be moved by Lakeside Builders to allow usage of faucet from outside house,
- v. Lakeside builders to remove/replace gas meter,

at a cost of Fourteen Thousand Eight Hundred and Ninety Nine Dollars (\$14,899.00), which Shreves paid.

65. The contract was executed in Shreves's home.

66. Shreves experienced numerous problems with the work done by Lakeside Builders.

67. Although the work was warranted by Lakeside Builders, Lakeside has refused to make any repairs and, in fact no such warranty exists.

68. Lakeside Builders knew, or should have known there was no warranty.

69. Lakeside Builders did not finish the doors in the kitchen or install siding as called for in the contract.

70. Defendant failed to include the following information in the contract with Shreves:

- a. The name of the consumer and the address of the residential property that is the subject of the home improvement.

- b. The date the home improvement contract was submitted to the consumer and any time limitation on the home improvement contract.
- c. The approximate starting and completion dates of the home improvements
- d. A statement of any contingencies that would materially change the approximate completion date.
- e. Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly after or below the signature.
- f. To provide a home improvement to the consumer before it was signed by the consumer
- g. The supplier failed to agree unequivocally by written signature to all of the terms of the home improvement contract.

71. In the course of entering into home improvement transactions, Defendants failed to provide a completed home improvement contract to the consumer before Shreves signed it.

**COUNT I-VIOLATIONS OF THE HOME IMPROVEMENT CONTRACTS ACT**

72. The services described in Paragraphs 17, 25, 30, 51 and 64 are "home improvements" as defined by Ind. Code § 24-5-11-3.

73. The transactions referred to in paragraphs 17, 25, 51 and 64 above are "home improvement contracts" as defined by Ind. Code § 24-5-11-4.

74. Defendants are “home improvement suppliers” as defined by Ind. Code § 24-5-11-6.

75. By failing to provide Hogue and Shreves with a completed home improvement contracts containing the information referred to in paragraph 23, 31, 34, 35, 52 and 70 above, Defendants violated the Home Improvement Contracts Act, Ind. Code § 24-5-11-10.

76. Defendants’ violations of the Indiana Home Improvement Contracts act referred to in paragraphs 23, 34, 34, 35, 52, and 70 constitute deceptive acts and subject Defendants to the remedies and penalties under Ind. Code § 24-5-0.5.

#### **COUNT II-VIOLATIONS OF THE CREDIT SERVICES ORGANIZATION ACT**

77. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 76 above.

78. The services Defendants provided in paragraphs 16, 21, 26, 39, 56, and 57 above are those of a “credit services organization” as defined by Ind. Code § 24-5-15-2.

79. By failing to obtain a bond Defendants violated the Credit Services Act, Ind. Code § 24-5-15-8.

80. By failing to provide consumers with a written contract and notice of cancellation for a credit services agreement, Defendants violated the Credit Services Organization Act, Ind. Code § 24-5-15-7.

81. By failing to provide a written statement of credit services to be provided, Defendants violated the Credit Services Organizations Act, Ind. Code § 24-5-15-6.

**COUNT III-VIOLATIONS OF THE HOME SOLICITATIONS SALES ACT**

82. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 81 above.

83. The transactions Defendants engaged in paragraphs 18, 25, 33, 51, and 65 above were "home consumer transactions."

84. By failing to provide consumers with a required notice of cancellation of a home solicitation sale, Defendants violated the Home Solicitation Sales Act, Ind. Code § 24-5-10-9.

**COUNT IV-VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT**

85. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 84 above.

86. The transactions referred to in paragraphs 18, 25, 33, 51 and 65 above are "consumer transactions" as defined by Ind. Code § 24-5-0.5-1(a)(1).

87. Defendants are "suppliers" as defined by Ind. Code § 24-5-0.5-2(a)(3).

88. The deceptive acts complained of herein will continue unless Defendants are enjoined.

89. By representing a home improvement could be completed at a stated price and within a stated or reasonable time, when Defendants knew, or should have known they could not they violated Ind. Code § 24-5-0.5-3(a)(1) and (10).

**COUNT V-KNOWING AND INTENTIONAL VIOLATIONS OF THE  
DECEPTIVE CONSUMER SALES ACT**

90. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 89 above.



91 The misrepresentations and deceptive acts set forth in paragraphs 23, 24, 31, 32, 34, 35, 38, 48, 52, 53, 58, 59, 60, 61, 62, 67, 70, 71, 75, 76, 80, 84, and 89 were committed by Defendants with knowledge and intent to deceive.

**RELIEF**

WHEREFORE, the Plaintiff, State of Indiana, requests the Court to enter judgment against Defendants, Jason Middleborn, Pat Middleborn and Lakeside Builders, LLC, enjoining Defendants from the following:

a. in the course of entering into home improvement transactions, failing to provide to the consumer a written, completed home improvement contract which includes at a minimum the following:

- (1) The name of the consumer and the address of the residential property that is subject of the home improvement;
- (2) The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;
- (3) The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;
- (4) A reasonably detailed description of the proposed home improvements;
- (5) If the description required by Ind. Code § 24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;

(6) The approximate starting and completion date of the home improvements;

(7) A statement of any contingencies that would materially change the approximate completion date;

(8) The home improvement contract price; and

(9) Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly after or below the signature;

b. in the course of entering into home improvement transactions, failing to agree unequivocally by written signature to all of the terms of a home improvement contract before the consumer signs the home improvement contract and before the consumer can be required to make any down payment;

c. in the course of entering into home improvement transactions, failing to provide a completed home improvement contract to the consumer before it is signed by the consumer; and

d. in the course of entering into home consumer transactions, failing to provide consumers with all notices of cancellation required by law.

e. in the course of acting as a credit services organization, failing to post the required bond/irrevocable letter of credit or failing to provide consumers with written statements, contracts and notices required by law.

f. with respect to the extension of credit by another person, selling, providing , performing or presenting that defendants can or will sell, provide, or perform credit services for consumers without complying in full with Ind. Code 24-5-15-1 *et.seq.*

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against Defendants Jason Middleborn, Pat Middleborn and Lakeside Builders, LLC for the following relief:

a. costs pursuant to Ind. Code § 24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;

b. consumer restitution in the amount of :Twenty Four Thousand Dollars (\$24, 000.00) to Betty Hogue.

c. consumer restitution in an amount to be determined by the Court to Jennifer Shreves.

d. on Count V of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-4(g) for Defendants knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred and 00/100 Dollars (\$500.00) per violation, payable to the State of Indiana;

d. on Count V of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-8 for Defendants' intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred and 00/100 Dollars (\$500.00) per violation payable to the State of Indiana;

e. all other just and proper relief.

Respectfully submitted,

STEVE CARTER  
Attorney General of Indiana  
Atty. No. 4150-64

By: 

Roy P. Coffey  
Deputy Attorney General  
Atty. No. 3930-29

Office of the Attorney General  
Indiana Government Center South  
302 W. Washington Street, 5<sup>th</sup> Floor  
Indianapolis, IN 46204  
Telephone: (317) 232-6229

173304

STATE OF INDIANA )  
 ) SS:  
 COUNTY OF LAKE )

IN THE LAKE SUPERIOR COURT  
 CIVIL DIVISION NO. 5

STATE OF INDIANA, )

Plaintiff, )

v. )

BRIAN MIDDLEBORN, )  
 PATCHES (PAT) MIDDLEBORN, )  
 and ROBERT MIDDLEBORN, )

d/b/a Economy Roofing, )  
 d/b/a Midwest Construction )

Defendants. )

CAUSE NO. 45D05-9811-CP-2275  
 AG

**Filed in Open Court**  
 MAY 22 2001  
*Anna M. Untch*  
 CLERK LAKE SUPERIOR COURT

**DEFAULT JUDGMENT AS TO PATCHES (PAT) MIDDLEBORN**

Plaintiff, State of Indiana, by its counsel, Steve Carter, Attorney General of and Indiana and Roy P. Coffey, Deputy Attorney General, having filed its Motion for Default Judgment as to Patches (Pat) Middleborn and the Court being duly advised in the premises now finds the following:

1. Defendant Patches (Pat) Middleborn was duly served with process twenty (20) days prior to the return of said summons through service at his residence and by service by first-class mail and by leaving a copy at the residence of Patches (Pat) Middleborn.
2. The Court has subject matter jurisdiction and personal jurisdiction over the Defendant.
3. Defendant has failed to appear, plead or otherwise respond to the complaint.
4. Plaintiff has filed an Affidavit of Non-Military service as to the Defendant.
5. This cause is now submitted to the Court for judgment.

STATE'S  
 EXHIBIT

A

**WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED** that Motion for Default Judgment in favor of the State of Indiana against the Defendant is granted.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that:

a. Pursuant to Ind. Code 24-5-0.5-4(c)(1), the Defendant, his agents, representatives, successors, and assigns are permanently enjoined from engaging in conduct in violation of Ind. Code 24-5-0.5-1 et seq. and Ind. Code 24-5-11-1 et seq.:

b. Pursuant to Ind. Code 24-5-0.5-4(d), the home improvement contracts between the Defendant and Kimberly Wittig, Abe Gomez, Albert Weirsbe, Eileen Biddings, and Dorothy Beasley are cancelled;

c. Pursuant to Ind. Code 24-5-0.5-4(c)(2), the Defendant is to make restitution payments to the consumers for all deposits, down payments and other funds remitted by the consumers for home improvements in the amount of Twenty Five Thousand One Hundred and Eight Dollars (\$25,108.00) to be distributed by the State of Indiana as follows:

<u>CONSUMER</u>	<u>RESTITUTION</u>
Kimberly Wittig	\$21,941.00
Abe Gomez	\$150.00
Albert Weirsbe	\$761.00
Dorothy Beasley	\$2,000.00
<u>Eileen Biddings</u>	<u>\$256.00</u>
Total	\$25,108.00

d. Pursuant to Ind. Code 24-5-0.5-4(c)(3), the Defendant must pay the Office of the Attorney General's reasonable expenses incurred in the investigation and prosecution of this action in the amount of One Thousand Forty Five Dollars (\$1,045.00).

e. Pursuant to Ind. Code 24-5-0.5-4(g), for the Defendant's knowing violations of the Deceptive Consumer Sales Act the Defendant must pay Two Thousand Dollars (\$2,000.00) to the State of Indiana;

f. Pursuant to Ind. Code 24-5-0.5-8, for the Defendant's intentional violations of the Deceptive Consumer Sales Act the Defendant must pay Two Thousand Dollars (\$2,000.00) to the State of Indiana;

g. Pursuant to Ind. Code 24-5-0.5-4(g), for the Defendant's knowing violations of the Home Improvements Contracts Act the Defendant must pay Two Thousand Dollars (\$2,000.00) to the State of Indiana;

For a total monetary judgment against the Defendant in the amount of Thirty Two Thousand One Hundred Fifty Three Dollars (\$32,153.00).

MAY 22 2001

Dated: \_\_\_\_\_

  
Judge, Lake Superior Court 5

Copies to:

Roy P. Coffey  
Deputy Attorney General  
Indiana Government Center, Fifth Floor  
402 West Washington Street  
Indianapolis, IN 46204

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

IN THE LAKE SUPERIOR COURT  
CIVIL DIVISION NO. 5

STATE OF INDIANA, )

Plaintiff, )

v )

BRIAN MIDDLEBORN, )  
PATCHES (PAT) MIDDLEBORN, )  
and ROBERT MIDDLEBORN )

d/b/a Economy Roofing, )  
d/b/a Midwest Construction )

Defendants. )

**Filed in Open Court**

OCT 22 1999

*Anna M. Anton*  
CLERK LAKE SUPERIOR COURT

CAUSE NO. 45D05-9811-CP-2275

**DEFAULT JUDGMENT**

Plaintiff, State of Indiana, has filed its Verified Motion for Default Judgment.

The Court, being duly advised, now FINDS:

1. The Court has subject matter jurisdiction and personal jurisdiction over Defendant, Brian Middleborn.
2. Defendant Brian Middleborn was personally served with notice of these proceedings and copies of the Verified Complaint and Amended Verified Complaint in this cause.
3. More than 20 days have passed and Defendant has failed to appear, plead or otherwise respond to the complaint.
4. Defendant Brian Middleborn is not an infant, incompetent, or in the military service.

STATE'S  
EXHIBIT

*B*



5. The Plaintiff's Motion for Default Judgment should be granted.

**THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED** that the Verified Motion for Default Judgment in favor of the State of Indiana against the Defendant Brian Middleborn is granted.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that:

- a. Pursuant to Ind. Code 24-5-0.5-4(c)(1), Defendant Brian Middleborn, his agents, representatives, successors, and assigns are permanently enjoined from engaging in conduct in violation of Ind. Code 24-5-0.5-1 et seq. and Ind. Code 24-5-11-1 et seq.;
- b. Pursuant to Ind. Code 24-5-0.5-4(d), the home improvement contracts of Kimberly Wittig, Abe Gomez, Albert Weirsbe, Eileen Biddings and Dorothy Beasley and the Defendant Brian Middleborn are cancelled;
- c. Pursuant to Ind. Code 24-5-0.5-4(c)(2), Defendant Brian Middleborn is to make restitution payments to the following consumers for all deposits, down payments and other funds remitted by the consumers for home improvements in the amount of Twenty Five Thousand One Hundred Eight dollars (\$25,108.00) to be distributed by the State of Indiana as follows:

<u>CONSUMER</u>	<u>RESTITUTION</u>
Kimberly Wittig	\$21,941.00
Abe Gomez	\$150.00
Albert Weirsbe	\$761.00
Eileen Biddings	\$256.00

Dorothy Beasley

\$2,000.00

d. Pursuant to Ind. Code 24-5-0.5-4(c)(3), Defendant Brian Middleborn must pay the Office of the Attorney General's reasonable expenses incurred in the investigation and prosecution of this action in the amount of One Thousand Nine Hundred Sixty Two dollars and Fifty cents (\$1,962.00);

e. Pursuant to Ind. Code 24-5-0.5-4(g), for Defendant's knowing violations of the Deceptive Consumer Sales Act, Defendant Brian Middleborn must pay civil penalties in the amount of Two Thousand Five Hundred dollars (\$2,500.00) to the State of Indiana;

f. Pursuant to Ind. Code 24-5-0.5-8, for the Defendant's intentional violations of the Deceptive Consumer Sales Act, Defendant Brian Middleborn must pay civil penalties in the amount of Two Thousand Five Hundred dollars (\$2,500.00) to the State of Indiana;

g. Pursuant to Ind. Code 24-5-0.5-4(g), for the Defendant's knowing violations of the Home Improvements Contracts Act, Defendant Brian Middleborn must pay civil penalty in the amount of Two Thousand Five Hundred dollars (\$2,500.00) to the State of Indiana;

For a total monetary judgment against the Defendant in the amount of Thirty Four Thousand Seven Hundred Fifty dollars (\$34,750.00).

Dated: OCT 22 1999

  
JUDGE, LAKE SUPERIOR COURT No. 5

**Distribution:**

**Office of the Attorney General  
Indiana Government Center South  
Fifth Floor  
402 W. Washington St.  
Indianapolis, Indiana 46204**

# LAKE SIDE BUILDERS LLC

1915 SOUTH HEATON STREET • KNOX, IN 46534  
PHONE: (574) 772-7710 • TOLL FREE: 1 (866) 298-7710 • FAX: (574) 772-7015

## CASH SALES CONTRACT

Owner: Betty Hogue Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Date Submitted: 8/07/2002  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Address of the Home Improvement: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_

Work included in this contract assumes the existing mechanical equipment is within the present code standards. If updating is required, the cost is to be an additional charge.

Detailed description of work and/or materials to be provided:

New soffit and fascia to entire house  
Removal of 7 existing windows  
Removal of existing siding  
Installation of vinyl siding to entire home  
New gutter & downspout system  
Installation of 7 new thermal windows  
Redeck entire roof - ~~rip~~ Tear off existing roof  
30 year warranty shingles also on overhang  
New drip edge and gutter flashing  
HAUL AWAY ALL JOB RELATED DEBRIS

TRACT PRICE (cash) \$ 20,943

Buyer agrees to pay the aforementioned

Cash Price as follows:

On Date of Contract \$ \_\_\_\_\_  
On Delivery of Materials \$ \_\_\_\_\_  
On Completion \$ \_\_\_\_\_

Buyer agrees to pay LAKE SIDE BUILDERS, LLC as provided herein in the event of any default buyer agrees to pay reasonable attorneys fees, their with all expenses of collection and costs of any suit filed should this contract, after default, be placed in the hands of any attorney for action. This document shall constitute the entire contract and be binding upon the parties hereto, there being no covenants, promises or agreements written or oral, except as herein set forth.

### NOTICE OF CANCELLATION

Buyer may cancel this transaction at any time prior to midnight of the 3<sup>rd</sup> business day after the date of this transaction, by notifying Seller in writing or telegram. See the attached notice of Cancellation Form for an explanation of this right.

THIS CONTRACT IS SUBJECT TO TERMS ON REVERSE SIDE, WHICH ARE PART OF THIS CONTRACT. NOTICE TO BUYER:

Do not sign this agreement before you read it or if it contains any blank spaces.

You are entitled to an exact copy of the agreement you sign.

Buyer acknowledges receipt of a fully completed copy of this contract executed by both Seller and Buyer. Co-signer, if any, acknowledges receipt of completed copy of this contract and explanation of co-signer obligation. This contract was submitted on the date above listed and may be copied on or before:

SELLER

LAKE SIDE BUILDERS LLC

AGENT: Joe Callahan 8/07/02



CASH CONTRACT

Betty L. Hogue, D.M.  
Buyer's Signature Date Accepted

BETTY L. HOGUE, D.M.  
Type or Print Buyer's Name and Date

Co-Buyer's Signature Date Accepted

# LAKE SIDE BUILDERS LLC

1915 SOUTH HERTON STREET • KNOX, IN 46534  
PHONE: (574) 772-7710 • TOLL FREE: 1 (888) 298-7710 • FAX: (574) 772-7015

## CASH SALES CONTRACT

Buyer (Owner) Betty Hoque Phone 1  
Address \_\_\_\_\_ Date Submitted 9-26-02  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Description of the Home Improvement SAME AS ABOVE

Work included in this contract assumes the existing mechanical equipment is within the present code standards. If updating is required, the cost is to be an additional charge.

Detailed description of work and/or materials to be provided:

Tear-off existing roof  
Redeck entire roof  
Ice water shield - felt paper  
Rubber roof on rear of house  
30 year shingles on rest of home  
ridge attic ventilation  
ridge cap shingles  
Tear out 7 existing windows  
Install 7 new Thermal windows  
HAUL AWAY ALL JOB DEBRIS

CONTRACT PRICE (Cash) \$ 10,000.00

Buyer agrees to pay the above mentioned

Cash Price as follows:

On Date of Contract \$ \_\_\_\_\_  
On Delivery of Materials \$ 5,000.00  
On Completion \$ 5,000.00

Buyer agrees to pay LAKE SIDE BUILDERS, LLC as provided herein in the event of any default. Buyer agrees to pay reasonable attorneys fees, and with all expenses of collection and costs of any suit filed should this contract, after default, be placed in the hands of any attorney in action. This document shall constitute the entire contract and be binding upon the parties hereto, there being no covenants, promises or agreements written or oral, except as herein set forth.

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I acknowledge receipt of a fully completed copy of this contract executed by both Seller and Buyer. Co-signer, if any, acknowledges receipt of a completed copy of this contract and explanation of co-signer obligation. This contract was submitted on the date above listed and must be kept on or before \_\_\_\_\_

SELLER

LAKE SIDE BUILDERS LLC

AGENT: Joe C. [Signature] 9/26/02 DATE



CASH CONTRACT

X Betty L. Hoque, D. Hoque Date Accepted

Type or Print Buyer's Name and Date

Co-Buyer's Signature Date Accepted

# LAKE SIDE BUILDERS LLC

1915 SOUTH HEATON STREET • KNOX, IN 46534  
PHONE: (574) 772-7710 • TOLL FREE: 1 (866) 298-7710 • FAX: (574) 772-7015

## CASH SALES CONTRACT

Buyer (Owner) Betty Hogue Phone \_\_\_\_\_  
Address \_\_\_\_\_ Date Submitted 10/31/02  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Address of the Home Improvement SAME AS ABOVE  
City \_\_\_\_\_ State \_\_\_\_\_

work included in this contract assumes the existing mechanical equipment is within the present code standards. If updating is required, the cost is to be an additional charge.

Detailed description of work and/or materials to be provided: Prepwork for appraisal

Prepare Entire Home for siding  
Installation of vinyl siding to entire home  
Siding to include front porch enclosure  
New aluminum soffits  
aluminum / vinyl fascia  
Repair porch overhang  
Haul away job related debris  
No further work at this time

TRACT PRICE (cash) \$ 24,000.00  
Buyer agrees to pay the amount mentioned.  
Cash Price as follows:  
On Date of Contract \$ 0  
On Delivery of Materials \$ 24,000.00  
On Completion \$ 1/2

Buyer agrees to pay LAKE SIDE BUILDERS, LLC as provided herein in the event of any default buyer agrees to pay reasonable attorney's fees, together with all expenses of collection and costs of any suit filed should this contract, after default, be placed in the hands of any attorney for collection. This document shall constitute the entire contract and be binding upon the parties herein, there being no covenants, promises or agreements written or oral, except as herein set forth.

### NOTICE OF CANCELLATION

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You are entitled to an exact copy of the agreement you sign.

I acknowledge receipt of a fully completed copy of this contract executed by both Seller and Buyer. Co-signer, if any, acknowledges receipt of completed copy of this contract and explanation of co-signer obligation. This contract was submitted on the date above listed and must be signed on or before

SELLER

LAKE SIDE BUILDERS LLC

AGENT

Joe Callahan 10/31/02  
Date



CASH CONTRACT

Betty Hogue 10/31/02  
Buyer Signature Date Received

\_\_\_\_\_

\_\_\_\_\_



707 Calumet Avenue  
Valparaiso, IN 46383

Phone# 219-462-0130  
Toll Free# 877-683-8811  
Fax# 219-462-0562

Brian R. Middleham  
Loan Consultant

www.1sttrust.org

PROJECT NO.

DATE

11-25/02

WORK TO BE PERFORMED AT:

DATE OF PLANS

ARCHITECT

PHONE NO.

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work, and completed in a substantial workmanlike manner for the sum of Fourteen Thousand

dollars

Dollars (\$ 14,000 )

with payments to be made as follows:

Respectfully submitted

*Brian R. Middleham*

Per Brian R. Middleham, R.C.S.

Any alteration or deviation from above specifications involving extra costs will be assessed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon delivery of plans, or delays beyond our control.

Note - This proposal may be withdrawn by us if not accepted within      days.

#### ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature Betty L. Hargens, R.C.S.

Signature

Date

11-25-02

1st TRUST  
CONSTRUCTION

## PROPOSAL

STATE'S  
EXHIBIT

G



# LAKE SIDE BUILDERS, LLC

1915 S. Heatón St., Knoxville, IN 46534

(574) 772-7710 Toll Free (866) 296-7710 Fax (574) 772-7015

Inside: Kitchens - Bathrooms - Rec Rooms

Outside: Decks - Roofing - Siding - Windows - Garages - Additions

No Money Down Financing

## Details for bathroom for Charles and Jennifer

Tear out existing bathroom...gut bathroom to studs.

Extend approximately 5' on west wall x 15' room addition per sketch, 42 inch footings with 3 rolls of cinder block to provide crawlspace.

Extend roof over new area with 2x6 joists, 16" on center. Roof decking to be 7/16 OSB to match existing style of roof - shed roof with modified rubber roof. Install gravel stop flashing and freeze board.

Exterior siding on addition alone with white vinyl siding over 7/16 OSB plywood. Walls to be insulated with R-13. Credit will be allowed in the future on the siding should customer decide to install siding on entire structure.)

One double hung window (new construction) thermal pane <sup>3x3 No obscure glass</sup> ~~(3x3)~~ and one entry door to be installed in kitchen where window now exists. Door to be 6 panel steel entry ( <sup>1/2 for kitchen</sup> WHITE SMOOTH LEFT HINGE ) design with new header for door. Also, a self storing storm door will be installed. Both doors and window in white.

New bathroom size will be 8x12 per drawing with closet taking part of space.

Move current laundry room to bathroom per drawing.

Job includes all fixtures as follows:

1 standard toilet, 1 60x42 two person Jacuzzi tub, 1 60" vanity with double sinks in oak with cultured marble top, Delta faucet systems on sinks and tub and shower, oak cabinets over washer and dryer (60" with two cabinets wall mounted), 1 medicine cabinet to match other oak cabinets, one double wide mirror for over sinks, light over each sink with a ceiling ventilation system to the outside wall, walls to be greenboard moisture barrier and subfloor to be fiberboard. Tub walls to be ceramic standard 4.25x4.25. Ceramic on floor to be standard 12x12. Standard 6 panel pine door leading to bathroom painted by Lakeside Builders color of choice of customer. Bring bathroom up to GFCI code, to include outlets for washer and dryer and electrical





outlets and Jacuzzi. Ceiling and walls outside tub area to be drywalled, finished, primed and painted and trim out with pine trim. Install heat duct from existing system, and install new plumbing and electrical from existing. Not upgrading existing plumbing or heating or electrical.

Install bifold doors on closet after framing in and drywalling/finishing to ceiling above the closet doors.

Install subfloor in corner of kitchen where room is extended. Trim interior around door with colonial to match bathroom.

Install anchor board for future deck (2x10) treated for future building of deck by customer, minimum of 10' length.

NIPSCO TO MOVE GAS LINE OR CUSTOMERS RESPONSIBILITY.

Warranty on all work will be two years on labor and all manufacturers warranties will apply.

Standard oak toilet paper holder and towel rack included, along with one shower curtain rod.

Colors of paint to be selected, counter top and tiles to be white or almond or any standard color (no fashion colors) and no tile inserts.

Outside faucet will be moved if <sup>if necessary</sup> by Lakeside Builders to allow usage of faucet from outside house.

LAKESIDE BUILDERS TO REMOVE/REPLACE GAS METER.

Total price guaranteed at \$14,899 good to Thursday.

All details will be as an attachment to our standard contract, and you will have copies. Terms will be \$100 down with 1/3 due on start of job, 1/3 upon

